



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 665**

**[Docket No. 231215-0306]**

**RIN 0648-BM34**

**Pacific Island Fisheries; 5-Year Extension of Moratorium on Harvest of Gold Corals**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule extends the region-wide moratorium on the harvest of gold corals in the U.S. Pacific Islands through June 30, 2028. NMFS intends this final rule to prevent overfishing and to stimulate research on gold corals.

**DATES:** This rule is effective [insert date 30 days after date of publication in the *FEDERAL REGISTER*].

**ADDRESSES:** Background information on Pacific Island precious coral fisheries is found in the fishery ecosystem plans (FEPs) available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, telephone 808-522-8220, fax 808-522-8226, or <https://www.wpcouncil.org>. Copies of supporting documents for this action are available from <https://www.regulations.gov/docket/NOAA-NMFS-2023-0071>, or

from Sarah Malloy, Acting Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

**FOR FURTHER INFORMATION CONTACT:** Pua Borges, NMFS PIRO Sustainable Fisheries, 808-725-5184.

**SUPPLEMENTARY INFORMATION:** Precious corals (also called deep-sea corals) include black, pink, red, bamboo, and gold corals, and are harvested for use in high quality jewelry. NMFS and the Council manage the fishery for precious corals in the U.S. Pacific Islands under FEPs for American Samoa, Hawaii, the Mariana Archipelago (Guam and the Northern Mariana Islands), and the Pacific Remote Island Areas. The U.S. fishery for gold corals in the Pacific Islands has been dormant since 2001.

In 2008, the Council recommended, and NMFS implemented, a 5-year moratorium on the harvest of gold corals in the Pacific Islands Region (73 FR 47098, August 13, 2008). The measure was a precautionary response to research that suggested that gold coral growth rates and recruitment were much lower than previously known.

The Council considered additional research in 2012 that included refined gold coral growth rates and the identification of previously unknown habitat requirements. Based on that information, in 2013 the Council recommended that NMFS extend the moratorium for 5 years, which the

agency did in May 2013 (78 FR 32181, May 29, 2013) and again in 2018 (83 FR 27716, June 14, 2018).

The current moratorium expired on June 30, 2023, but the Council continues to be concerned about uncertainties related to slow gold coral growth rates, taxonomy, and complex habitat requirements. Extending the moratorium another 5 years will provide additional time for further research and for the Council to develop sustainable management measures for gold corals. Based on the Council's concerns, NMFS is extending the moratorium on harvesting gold corals for 5 years, through June 30, 2028.

Additional background information on this action is in the preamble to the proposed rule (88 FR 65356, September 22, 2023).

### **Comments and Responses**

On September 22, 2023, NMFS published a proposed rule and request for public comments (88 FR 65356). The comment period ended October 23, 2023. NMFS received comments from three individuals that generally supported the rule. One of these comments also suggested that the moratorium be made permanent. NMFS summarizes the comments and responds below.

*Comment 1:* The age and slow growth of gold corals make them vulnerable to exploitation, so this regulation is necessary to protect their populations, prevent overfishing and to allow time for more research.

*Response:* NMFS agrees and will continue to regulate Federal fisheries to ensure that they are sustainable, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FEP and implementing regulations. Extending the moratorium another 5 years will provide additional time for further research related to gold coral growth rates, taxonomy, and complex habitat requirements.

*Comment 2:* The harvest of gold corals should be permanently banned.

*Response:* Among management alternatives considered by the Council at their 194th meeting in March 2023 was an option to permanently ban harvest of gold coral. There are currently uncertainties and knowledge gaps in our understanding of gold coral biology, but these uncertainties do not warrant a permanent closure of the fishery at this time. Instead the Council recommended continuing a precautionary approach through a 5-year extension of the moratorium on harvest through June 30, 2028. This extension will allow the Council time to calculate maximum sustainable yield, continue to evaluate new and existing information to inform future management strategies, and consider a long-term solution for the fishery.

#### **Changes from the Proposed Rule**

This final rule contains no changes from the proposed rule.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

### **List of Subjects in 50 CFR Part 665**

Administrative practice and procedure, American Samoa, Deep sea coral, Fisheries, Fishing, Guam, Hawaii, Northern

Mariana Islands, Pacific Remote Island Areas, Precious coral.

Dated: December 18, 2023.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 665 as follows:

**PART 665—FISHERIES IN THE WESTERN PACIFIC**

1. The authority citation for 50 CFR part 665 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. Revise § 665.169 to read as follows:

**§ 665.169 Gold coral harvest moratorium.**

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2028.

3. Amend § 665.269 by revising Note 2 to § 665.269 to read as follows:

**§ 665.269 Annual Catch Limits (ACL).**

\* \* \* \* \*

Note 2 to § 665.269: A moratorium on gold coral harvesting is in effect through June 30, 2028.

4. Revise § 665.270 to read as follows:

**§ 665.270 Gold coral harvest moratorium.**

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2028.

5. Revise § 665.469 to read as follows:

**§ 665.469 Gold coral harvest moratorium.**

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2028.

6. Revise § 665.669 to read as follows:

**§ 665.669 Gold coral harvest moratorium.**

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2028.

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